

**[SCHEDULE B1
ADMINISTRATION**

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion has effect on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

[NATURE OF ADMINISTRATION

] ¹


Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion has effect on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

[Administration] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion has effect on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[1

(1) For the purposes of this Act “administrator” of a company means a person appointed under this Schedule to manage the company's affairs, business and property.

(2) For the purposes of this Act—

- (a) a company is “in administration” while the appointment of an administrator of the company has effect,
- (b) a company “enters administration” when the appointment of an administrator takes effect,
- (c) a company ceases to be in administration when the appointment of an administrator of the company ceases to have effect in accordance with this Schedule, and
- (d) a company does not cease to be in administration merely because an administrator vacates office (by reason of resignation, death or otherwise) or is removed from office.


] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion has effect on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 1(1)-(2)(d): United Kingdom

 Law In Force

[2

A person may be appointed as administrator of a company—

- (a) by administration order of the court under paragraph 10,
- (b) by the holder of a floating charge under paragraph 14, or
- (c) by the company or its directors under paragraph 22.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion has effect on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)


Extent

Sch. B1 para. 2(a)-(c): United Kingdom

[Purpose of administration] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion has effect on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[3

(1) The administrator of a company must perform his functions with the objective of—

- (a) rescuing the company as a going concern, or
- (b) achieving a better result for the company's creditors as a whole than would be likely if the company were wound up (without first being in administration), or
- (c) realising property in order to make a distribution to one or more secured or preferential creditors.

(2) Subject to sub-paragraph (4), the administrator of a company must perform his functions in the interests of the company's creditors as a whole.

(3) The administrator must perform his functions with the objective specified in sub-paragraph (1)(a) unless he thinks either—

- (a) that it is not reasonably practicable to achieve that objective, or
- (b) that the objective specified in sub-paragraph (1)(b) would achieve a better result for the company's creditors as a whole.

(4) The administrator may perform his functions with the objective specified in sub-paragraph (1)(c) only if—

- (a) he thinks that it is not reasonably practicable to achieve either of the objectives specified in sub-paragraph (1)(a) and (b), and
- (b) he does not unnecessarily harm the interests of the creditors of the company as a whole.


] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion has effect on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 3(1)-(4)(b): United Kingdom

 Law In Force

[4

The administrator of a company must perform his functions as quickly and efficiently as is reasonably practicable.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion has effect on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 4: United Kingdom

[Status of administrator] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion has effect on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[5

An administrator is an officer of the court (whether or not he is appointed by the court).

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion has effect on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 5: United Kingdom

[General restrictions] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion has effect on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

✓ Law In Force

[6

A person may be appointed as administrator of a company only if he is qualified to act as an insolvency practitioner in relation to the company.

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion has effect on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 6: United Kingdom

✓ Law In Force

[7

A person may not be appointed as administrator of a company which is in administration (subject to the provisions of paragraphs 90 to 97 and 100 to 103 about replacement and additional administrators).

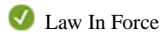
] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion has effect on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 7: United Kingdom



[8

(1) A person may not be appointed as administrator of a company which is in liquidation by virtue of—

- (a) a resolution for voluntary winding up, or
- (b) a winding-up order.

(2) Sub-paragraph (1)(a) is subject to paragraph 38.

(3) Sub-paragraph (1)(b) is subject to paragraphs 37 and 38.

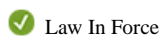
]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion has effect on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 8(1)-(3): United Kingdom



[9

(1) A person may not be appointed as administrator of a company which—

- (a) has a liability in respect of a deposit which it accepted in accordance with the Banking Act 1979 (c. 37) or 1987 (c. 22), but
- (b) is not an authorised deposit taker.

(2) A person may not be appointed as administrator of a company which effects or carries out contracts of insurance.

(3) But sub-paragraph (2) does not apply to a company which—

- (a) is exempt from the general prohibition in relation to effecting or carrying out contracts of insurance, or
- (b) is an authorised deposit taker effecting or carrying out contracts of insurance in the course of a banking business.

(4) In this paragraph—

“authorised deposit taker” means a person with permission under Part IV of the Financial Services and Markets Act 2000 (c. 8) to accept deposits, and
“the general prohibition” has the meaning given by section 19 of that Act.

- (5) This paragraph shall be construed in accordance with—
- (a) section 22 of the Financial Services and Markets Act 2000 (classes of regulated activity and categories of investment),
 - (b) any relevant order under that section, and
 - (c) Schedule 2 to that Act (regulated activities).

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion has effect on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 9(1)-(5)(c): United Kingdom

[APPOINTMENT OF ADMINISTRATOR BY COURT

] ¹


Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

[Administration order] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[10

An administration order is an order appointing a person as the administrator of a company.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 10: United Kingdom

[Conditions for making order]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[11

The court may make an administration order in relation to a company only if satisfied—

- (a) that the company is or is likely to become unable to pay its debts, and
- (b) that the administration order is reasonably likely to achieve the purpose of administration.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

Extent

Sch. B1 para. 11(a)-(b): United Kingdom

[Administration application]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[12

(1) An application to the court for an administration order in respect of a company (an “administration application”) may be made only by—

- (a) the company,
- (b) the directors of the company,
- (c) one or more creditors of the company,

(d) the [designated officer]² for a magistrates' court in the exercise of the power conferred by section 87A of the Magistrates' Courts Act 1980 (c. 43) (fine imposed on company), or
(e) a combination of persons listed in paragraphs (a) to (d).

(2) As soon as is reasonably practicable after the making of an administration application the applicant shall notify—

- (a) any person who has appointed an administrative receiver of the company,
- (b) any person who is or may be entitled to appoint an administrative receiver of the company,
- (c) any person who is or may be entitled to appoint an administrator of the company under paragraph 14, and
- (d) such other persons as may be prescribed.

(3) An administration application may not be withdrawn without the permission of the court.

(4) In sub-paragraph (1) “creditor” includes a contingent creditor and a prospective creditor.

[(5) Sub-paragraph (1) is without prejudice to section 7(4)(b).]³
]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Words substituted by Courts Act 2003 c. 39 Sch.8 para.299 (April 1, 2005)
- ³ Words substituted by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: commenced by an amendment)


Extent

Sch. B1 para. 12(1)-(5): United Kingdom

[Powers of court]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[13

(1) On hearing an administration application the court may—

- (a) make the administration order sought;
- (b) dismiss the application;
- (c) adjourn the hearing conditionally or unconditionally;
- (d) make an interim order;
- (e) treat the application as a winding-up petition and make any order which the court could make under section 125;

- (f) make any other order which the court thinks appropriate.
- (2) An appointment of an administrator by administration order takes effect—
- (a) at a time appointed by the order, or
 - (b) where no time is appointed by the order, when the order is made.
- (3) An interim order under sub-paragraph (1)(d) may, in particular—
- (a) restrict the exercise of a power of the directors or the company;
 - (b) make provision conferring a discretion on the court or on a person qualified to act as an insolvency practitioner in relation to the company.
- (4) This paragraph is subject to paragraph 39.
-] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 13(1)-(4): United Kingdom

[APPOINTMENT OF ADMINISTRATOR BY HOLDER OF FLOATING CHARGE

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

[Power to appoint] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[14

- (1) The holder of a qualifying floating charge in respect of a company's property may appoint an administrator of the company.
- (2) For the purposes of sub-paragraph (1) a floating charge qualifies if created by an instrument which—

- (a) states that this paragraph applies to the floating charge,
- (b) purports to empower the holder of the floating charge to appoint an administrator of the company,
- (c) purports to empower the holder of the floating charge to make an appointment which would be the appointment of an administrative receiver within the meaning given by section 29(2), or
- (d) purports to empower the holder of a floating charge in Scotland to appoint a receiver who on appointment would be an administrative receiver.

(3) For the purposes of sub-paragraph (1) a person is the holder of a qualifying floating charge in respect of a company's property if he holds one or more debentures of the company secured—

- (a) by a qualifying floating charge which relates to the whole or substantially the whole of the company's property,
- (b) by a number of qualifying floating charges which together relate to the whole or substantially the whole of the company's property, or
- (c) by charges and other forms of security which together relate to the whole or substantially the whole of the company's property and at least one of which is a qualifying floating charge.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 14(1)-(3)(c): United Kingdom

[Restrictions on power to appoint] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[15

- (1) A person may not appoint an administrator under paragraph 14 unless—
 - (a) he has given at least two business days' written notice to the holder of any prior floating charge which satisfies paragraph 14(2), or
 - (b) the holder of any prior floating charge which satisfies paragraph 14(2) has consented in writing to the making of the appointment.
- (2) One floating charge is prior to another for the purposes of this paragraph if—
 - (a) it was created first, or

(b) it is to be treated as having priority in accordance with an agreement to which the holder of each floating charge was party.

(3) Sub-paragraph (2) shall have effect in relation to Scotland as if the following were substituted for paragraph (a)—

“(a) it has priority of ranking in accordance with section 464(4)(b) of the Companies Act 1985 (c. 6),”.


] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 15(1)-(3): United Kingdom

 Law In Force

[16

An administrator may not be appointed under paragraph 14 while a floating charge on which the appointment relies is not enforceable.


] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 16: United Kingdom

 Law In Force

[17

An administrator of a company may not be appointed under paragraph 14 if—

- (a) a provisional liquidator of the company has been appointed under section 135, or
- (b) an administrative receiver of the company is in office.

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 17(a)-(b): United Kingdom

[Notice of appointment]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[18

- (1) A person who appoints an administrator of a company under paragraph 14 shall file with the court—
- (a) a notice of appointment, and
 - (b) such other documents as may be prescribed.
- (2) The notice of appointment must include a statutory declaration by or on behalf of the person who makes the appointment—
- (a) that the person is the holder of a qualifying floating charge in respect of the company's property,
 - (b) that each floating charge relied on in making the appointment is (or was) enforceable on the date of the appointment, and
 - (c) that the appointment is in accordance with this Schedule.
- (3) The notice of appointment must identify the administrator and must be accompanied by a statement by the administrator—
- (a) that he consents to the appointment,
 - (b) that in his opinion the purpose of administration is reasonably likely to be achieved, and
 - (c) giving such other information and opinions as may be prescribed.
- (4) For the purpose of a statement under sub-paragraph (3) an administrator may rely on information supplied by directors of the company (unless he has reason to doubt its accuracy).
- (5) The notice of appointment and any document accompanying it must be in the prescribed form.
- (6) A statutory declaration under sub-paragraph (2) must be made during the prescribed period.
- (7) A person commits an offence if in a statutory declaration under sub-paragraph (2) he makes a statement—
- (a) which is false, and
 - (b) which he does not reasonably believe to be true.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)


Extent

Sch. B1 para. 18(1)-(7)(b): United Kingdom

[Commencement of appointment]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[19

The appointment of an administrator under paragraph 14 takes effect when the requirements of paragraph 18 are satisfied.


]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 19: United Kingdom

 Law In Force

[20

A person who appoints an administrator under paragraph 14—

- (a) shall notify the administrator and such other persons as may be prescribed as soon as is reasonably practicable after the requirements of paragraph 18 are satisfied, and
- (b) commits an offence if he fails without reasonable excuse to comply with paragraph (a).

]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 20(a)-(b): United Kingdom

[Invalid appointment: indemnity]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[21

(1) This paragraph applies where—

- (a) a person purports to appoint an administrator under paragraph 14, and
- (b) the appointment is discovered to be invalid.

(2) The court may order the person who purported to make the appointment to indemnify the person appointed against liability which arises solely by reason of the appointment's invalidity.

¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 21(1)-(2): United Kingdom

[APPOINTMENT OF ADMINISTRATOR BY COMPANY OR DIRECTORS

¹


Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

[Power to appoint]¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

 Law In Force

[22

(1) A company may appoint an administrator.

(2) The directors of a company may appoint an administrator.

¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)


Extent

Sch. B1 para. 22(1)-(2): United Kingdom

[Restrictions on power to appoint]¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

 Law In Force

[23

(1) This paragraph applies where an administrator of a company is appointed—

- (a) under paragraph 22, or
- (b) on an administration application made by the company or its directors.

(2) An administrator of the company may not be appointed under paragraph 22 during the period of 12 months beginning with the date on which the appointment referred to in sub-paragraph (1) ceases to have effect.

¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent


Sch. B1 para. 23(1)-(2): United Kingdom

 Repealed

24 [...]¹

Notes

¹ Repealed by Corporate Insolvency and Governance Act 2020 c. 12 Sch.3 para.31(2) (June 26, 2020)

 Law In Force

[25

An administrator of a company may not be appointed under paragraph 22 if—

- (a) a petition for the winding up of the company has been presented and is not yet disposed of,
- (b) an administration application has been made and is not yet disposed of, or
- (c) an administrative receiver of the company is in office.


] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 25(a)-(c): United Kingdom

 Law In Force

[25A

(1) Paragraph 25(a) does not prevent the appointment of an administrator of a company if the petition for the winding up of the company was presented after the person proposing to make the appointment filed the notice of intention to appoint with the court under paragraph 27.

(2) But sub-paragraph (1) does not apply if the petition was presented under a provision mentioned in paragraph 42(4).

] ¹

Notes

¹ Added by Deregulation Act 2015 c. 20 Sch.6(2) para.5 (May 26, 2015)


Extent

Sch. B1 para. 25A(1)-(2): United Kingdom

[Notice of intention to appoint]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[26

(1) A person who proposes to make an appointment under paragraph 22 shall give at least five business days' written notice to—

- (a) any person who is or may be entitled to appoint an administrative receiver of the company, and
- (b) any person who is or may be entitled to appoint an administrator of the company under paragraph 14.

(2) A person who [gives notice of intention to appoint under sub-paragraph (1)]² shall also give such notice as may be prescribed to such other persons as may be prescribed.

(3) A notice under this paragraph must—

- (a) identify the proposed administrator, and
- (b) be in the prescribed form.

]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

- ² Words substituted by Deregulation Act 2015 c. 20 Sch.6(2) para.6 (October 1, 2015)

Extent

Sch. B1 para. 26(1)-(3)(b): United Kingdom

 Law In Force

[27

(1) A person who gives notice of intention to appoint under paragraph 26 shall file with the court as soon as is reasonably practicable a copy of—

- (a) the notice, and
- (b) any document accompanying it.

(2) The copy filed under sub-paragraph (1) must be accompanied by a statutory declaration made by or on behalf of the person who proposes to make the appointment—

- (a) that the company is or is likely to become unable to pay its debts,

- (b) that the company is not in liquidation, and
 - (c) that, so far as the person making the statement is able to ascertain, the appointment is not prevented by paragraphs 23 to 25, and
 - (d) to such additional effect, and giving such information, as may be prescribed.
- (3) A statutory declaration under sub-paragraph (2) must—
- (a) be in the prescribed form, and
 - (b) be made during the prescribed period.
- (4) A person commits an offence if in a statutory declaration under sub-paragraph (2) he makes a statement—
- (a) which is false, and
 - (b) which he does not reasonably believe to be true.


] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 27(1)-(4)(b): United Kingdom

 Law In Force

[28

- (1) An appointment may not be made under paragraph 22 unless the person who makes the appointment has complied with any requirement of paragraphs 26 and 27 and—
- (a) the period of notice specified in paragraph 26(1) has expired, or
 - (b) each person to whom notice has been given under paragraph 26(1) has consented in writing to the making of the appointment.

- (2) An appointment may not be made under paragraph 22 after the period of ten business days beginning with the date on which the notice of intention to appoint is filed under paragraph 27(1).

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)


Extent

Sch. B1 para. 28(1)-(2): United Kingdom

[Notice of appointment]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[29

- (1) A person who appoints an administrator of a company under paragraph 22 shall file with the court—
- (a) a notice of appointment, and
 - (b) such other documents as may be prescribed.
- (2) The notice of appointment must include a statutory declaration by or on behalf of the person who makes the appointment—
- (a) that the person is entitled to make an appointment under paragraph 22,
 - (b) that the appointment is in accordance with this Schedule, and
 - (c) that, so far as the person making the statement is able to ascertain, the statements made and information given in the statutory declaration filed with the notice of intention to appoint remain accurate.
- (3) The notice of appointment must identify the administrator and must be accompanied by a statement by the administrator—
- (a) that he consents to the appointment,
 - (b) that in his opinion the purpose of administration is reasonably likely to be achieved, and
 - (c) giving such other information and opinions as may be prescribed.
- (4) For the purpose of a statement under sub-paragraph (3) an administrator may rely on information supplied by directors of the company (unless he has reason to doubt its accuracy).
- (5) The notice of appointment and any document accompanying it must be in the prescribed form.
- (6) A statutory declaration under sub-paragraph (2) must be made during the prescribed period.
- (7) A person commits an offence if in a statutory declaration under sub-paragraph (2) he makes a statement—
- (a) which is false, and
 - (b) which he does not reasonably believe to be true.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 29(1)-(7)(b): United Kingdom

✓ Law In Force

[30

In a case in which no person is entitled to notice of intention to appoint under paragraph 26(1) (and paragraph 28 therefore does not apply)—

- (a) the statutory declaration accompanying the notice of appointment must include the statements and information required under paragraph 27(2), and
- (b) paragraph 29(2)(c) shall not apply.

]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 30(a)-(b): United Kingdom

*[Commencement of appointment]*¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[31

The appointment of an administrator under paragraph 22 takes effect when the requirements of paragraph 29 are satisfied.

]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 31: United Kingdom

✓ Law In Force

[32

A person who appoints an administrator under paragraph 22—

- (a) shall notify the administrator and such other persons as may be prescribed as soon as is reasonably practicable after the requirements of paragraph 29 are satisfied, and
- (b) commits an offence if he fails without reasonable excuse to comply with paragraph (a).

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 32(a)-(b): United Kingdom

✓ Law In Force

[33

If before the requirements of paragraph 29 are satisfied the company enters administration by virtue of an administration order or an appointment under paragraph 14—

- (a) the appointment under paragraph 22 shall not take effect, and
- (b) paragraph 32 shall not apply.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 33(a)-(b): United Kingdom

[Invalid appointment: indemnity] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[34

(1) This paragraph applies where—

- (a) a person purports to appoint an administrator under paragraph 22, and

(b) the appointment is discovered to be invalid.

(2) The court may order the person who purported to make the appointment to indemnify the person appointed against liability which arises solely by reason of the appointment's invalidity.

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 34(1)-(2): United Kingdom

[ADMINISTRATION APPLICATION — SPECIAL CASES

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

[Application by holder of floating charge] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

✓ Law In Force

[35

(1) This paragraph applies where an administration application in respect of a company—
(a) is made by the holder of a qualifying floating charge in respect of the company's property,
and
(b) includes a statement that the application is made in reliance on this paragraph.

(2) The court may make an administration order—
(a) whether or not satisfied that the company is or is likely to become unable to pay its debts, but
(b) only if satisfied that the applicant could appoint an administrator under paragraph 14.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)


Extent

Sch. B1 para. 35(1)-(2)(b): United Kingdom

[Intervention by holder of floating charge]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[36

(1) This paragraph applies where—

- (a) an administration application in respect of a company is made by a person who is not the holder of a qualifying floating charge in respect of the company's property, and
- (b) the holder of a qualifying floating charge in respect of the company's property applies to the court to have a specified person appointed as administrator (and not the person specified by the administration applicant).

(2) The court shall grant an application under sub-paragraph (1)(b) unless the court thinks it right to refuse the application because of the particular circumstances of the case.

¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 36(1)-(2): United Kingdom

[Application where company in liquidation]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[37

- (1) This paragraph applies where the holder of a qualifying floating charge in respect of a company's property could appoint an administrator under paragraph 14 but for paragraph 8(1)(b).
- (2) The holder of the qualifying floating charge may make an administration application.
- (3) If the court makes an administration order on hearing an application made by virtue of sub-paragraph (2)—
- (a) the court shall discharge the winding-up order,
 - (b) the court shall make provision for such matters as may be prescribed,
 - (c) the court may make other consequential provision,
 - (d) the court shall specify which of the powers under this Schedule are to be exercisable by the administrator, and
 - (e) this Schedule shall have effect with such modifications as the court may specify.

]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 37(1)-(3)(e): United Kingdom

✓ Law In Force

[38

- (1) The liquidator of a company may make an administration application.
- (2) If the court makes an administration order on hearing an application made by virtue of sub-paragraph (1)—
- (a) the court shall discharge any winding-up order in respect of the company,
 - (b) the court shall make provision for such matters as may be prescribed,
 - (c) the court may make other consequential provision,
 - (d) the court shall specify which of the powers under this Schedule are to be exercisable by the administrator, and
 - (e) this Schedule shall have effect with such modifications as the court may specify.

]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)


Extent

Sch. B1 para. 38(1)-(2)(e): United Kingdom

[Effect of administrative receivership]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[39

(1) Where there is an administrative receiver of a company the court must dismiss an administration application in respect of the company unless—

- (a) the person by or on behalf of whom the receiver was appointed consents to the making of the administration order,
- (b) the court thinks that the security by virtue of which the receiver was appointed would be liable to be released or discharged under sections 238 to 240 (transaction at undervalue and preference) if an administration order were made,
- (c) the court thinks that the security by virtue of which the receiver was appointed would be avoided under section 245 (avoidance of floating charge) if an administration order were made, or
- (d) the court thinks that the security by virtue of which the receiver was appointed would be challengeable under section 242 (gratuitous alienations) or 243 (unfair preferences) or under any rule of law in Scotland.

(2) Sub-paragraph (1) applies whether the administrative receiver is appointed before or after the making of the administration application.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 39(1)-(2): United Kingdom

[EFFECT OF ADMINISTRATION

] ¹


Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

[Dismissal of pending winding-up petition]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[40

- (1) A petition for the winding up of a company—
 (a) shall be dismissed on the making of an administration order in respect of the company, and
 (b) shall be suspended while the company is in administration following an appointment under paragraph 14.
- (2) Sub-paragraph (1)(b) does not apply to a petition presented under—
 (a) section 124A (public interest), [...]²
 [(aa) section 124B (SEs), or]²
 (b) section 367 of the Financial Services and Markets Act 2000 (c. 8) (petition by [Financial Conduct Authority or Prudential Regulation Authority]³).
- (3) Where an administrator becomes aware that a petition was presented under a provision referred to in sub-paragraph (2) before his appointment, he shall apply to the court for directions under paragraph 63.
- ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Added by European Public Limited-Liability Company Regulations 2004/2326 Pt 5 reg.73(4)(c) (October 8, 2004)
- ³ Words substituted by Financial Services Act 2012 c. 21 Sch.18(2) para.55(2) (April 1, 2013)

Extent

Sch. B1 para. 40(1)-(3): United Kingdom

[Dismissal of administrative or other receiver]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[41

- (1) When an administration order takes effect in respect of a company any administrative receiver of the company shall vacate office.
- (2) Where a company is in administration, any receiver of part of the company's property shall vacate office if the administrator requires him to.
- (3) Where an administrative receiver or receiver vacates office under sub-paragraph (1) or (2)—
 - (a) his remuneration shall be charged on and paid out of any property of the company which was in his custody or under his control immediately before he vacated office, and
 - (b) he need not take any further steps under section 40 or 59.
- (4) In the application of sub-paragraph (3)(a)—
 - (a) “remuneration” includes expenses properly incurred and any indemnity to which the administrative receiver or receiver is entitled out of the assets of the company,
 - (b) the charge imposed takes priority over security held by the person by whom or on whose behalf the administrative receiver or receiver was appointed, and
 - (c) the provision for payment is subject to paragraph 43.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 41(1)-(4)(c): United Kingdom

[Moratorium on insolvency proceedings] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[42

- (1) This paragraph applies to a company in administration.
- (2) No resolution may be passed for the winding up of the company.
- (3) No order may be made for the winding up of the company.
- (4) Sub-paragraph (3) does not apply to an order made on a petition presented under—
 - (a) section 124A (public interest), [...] ²
 - [(aa) section 124B (SEs), or] ²

(b) section 367 of the Financial Services and Markets Act 2000 (c. 8) (petition by [Financial Conduct Authority or Prudential Regulation Authority]³).

(5) If a petition presented under a provision referred to in sub-paragraph (4) comes to the attention of the administrator, he shall apply to the court for directions under paragraph 63.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Added by European Public Limited-Liability Company Regulations 2004/2326 Pt 5 reg.73(4)(c) (October 8, 2004)
- ³ Words substituted by Financial Services Act 2012 c. 21 Sch.18(2) para.55(3) (April 1, 2013)

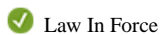
Extent

Sch. B1 para. 42(1)-(5): United Kingdom

[Moratorium on other legal process]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-



Law In Force

[43

- (1) This paragraph applies to a company in administration.
- (2) No step may be taken to enforce security over the company's property except—
- (a) with the consent of the administrator, or
 - (b) with the permission of the court.
- (3) No step may be taken to repossess goods in the company's possession under a hire-purchase agreement except—
- (a) with the consent of the administrator, or
 - (b) with the permission of the court.
- (4) A landlord may not exercise a right of forfeiture by peaceable re-entry in relation to premises let to the company except—
- (a) with the consent of the administrator, or
 - (b) with the permission of the court.
- (5) In Scotland, a landlord may not exercise a right of irritancy in relation to premises let to the company except—
- (a) with the consent of the administrator, or
 - (b) with the permission of the court.

(6) No legal process (including legal proceedings, execution, distress and diligence) may be instituted or continued against the company or property of the company except—

- (a) with the consent of the administrator, or
- (b) with the permission of the court.

[(6A) An administrative receiver of the company may not be appointed.]²

(7) Where the court gives permission for a transaction under this paragraph it may impose a condition on or a requirement in connection with the transaction.

(8) In this paragraph “landlord” includes a person to whom rent is payable.
]¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

² Words substituted by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: commenced by an amendment)


Extent

Sch. B1 para. 43(1)-(8): United Kingdom

[Interim moratorium]¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

 Law In Force

[44

(1) This paragraph applies where an administration application in respect of a company has been made and—

- (a) the application has not yet been granted or dismissed, or
- (b) the application has been granted but the administration order has not yet taken effect.

(2) This paragraph also applies from the time when a copy of notice of intention to appoint an administrator under paragraph 14 is filed with the court until—

- (a) the appointment of the administrator takes effect, or
- (b) the period of five business days beginning with the date of filing expires without an administrator having been appointed.

(3) Sub-paragraph (2) has effect in relation to a notice of intention to appoint only if it is in the prescribed form.

(4) This paragraph also applies from the time when a copy of notice of intention to appoint an administrator is filed with the court under paragraph 27(1) until—

- (a) the appointment of the administrator takes effect, or

(b) the period specified in paragraph 28(2) expires without an administrator having been appointed.

(5) The provisions of paragraphs 42 and 43 shall apply (ignoring any reference to the consent of the administrator).

(6) If there is an administrative receiver of the company when the administration application is made, the provisions of paragraphs 42 and 43 shall not begin to apply by virtue of this paragraph until the person by or on behalf of whom the receiver was appointed consents to the making of the administration order.

(7) This paragraph does not prevent or require the permission of the court for—

- (a) the presentation of a petition for the winding up of the company under a provision mentioned in paragraph 42(4),
- (b) the appointment of an administrator under paragraph 14,
- (c) the appointment of an administrative receiver of the company, or
- (d) the carrying out by an administrative receiver (whenever appointed) of his functions.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)


Extent

Sch. B1 para. 44(1)-(7)(d): United Kingdom

*[Publicity]*¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[45.—

(1) While a company is in administration, every business document issued by or on behalf of the company or the administrator, and all the company's websites, must state—

- (a) the name of the administrator, and
- (b) that the affairs, business and property of the company are being managed by the administrator.

(2) Any of the following persons commits an offence if without reasonable excuse the person authorises or permits a contravention of sub-paragraph (1)—

- (a) the administrator,
- (b) an officer of the company, and

(c) the company.

(3) In sub-paragraph (1) “business document” means—

- (a) an invoice,
- (b) an order for goods or services,
- (c) a business letter, and
- (d) an order form,

whether in hard copy, electronic or any other form.

] ¹

Notes

¹ Substituted by Companies (Trading Disclosures) (Insolvency) Regulations 2008/1897 reg.4(1) (October 1, 2008)

Extent

Sch. B1 para. 45(1)-(3)(d): United Kingdom

[PROCESS OF ADMINISTRATION

] ¹


Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

[Announcement of administrator's appointment] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

 Law In Force

[46

(1) This paragraph applies where a person becomes the administrator of a company.

(2) As soon as is reasonably practicable the administrator shall—

- (a) send a notice of his appointment to the company, and
- (b) publish a notice of his appointment in the prescribed manner.

(3) As soon as is reasonably practicable the administrator shall—

- (a) obtain a list of the company's creditors, and
- (b) send a notice of his appointment to each creditor of whose claim and address he is aware.

- (4) The administrator shall send a notice of his appointment to the registrar of companies before the end of the period of 7 days beginning with the date specified in sub-paragraph (6).
- (5) The administrator shall send a notice of his appointment to such persons as may be prescribed before the end of the prescribed period beginning with the date specified in sub-paragraph (6).
- (6) The date for the purpose of sub-paragraphs (4) and (5) is—
- (a) in the case of an administrator appointed by administration order, the date of the order,
 - (b) in the case of an administrator appointed under paragraph 14, the date on which he receives notice under paragraph 20, and
 - (c) in the case of an administrator appointed under paragraph 22, the date on which he receives notice under paragraph 32.
- (7) The court may direct that sub-paragraph (3)(b) or (5)—
- (a) shall not apply, or
 - (b) shall apply with the substitution of a different period.
- (8) A notice under this paragraph must—
- (a) contain the prescribed information, and
 - (b) be in the prescribed form.
- (9) An administrator commits an offence if he fails without reasonable excuse to comply with a requirement of this paragraph.
-] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 46(1)-(9): United Kingdom

[Statement of company's affairs] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-



[47

- (1) As soon as is reasonably practicable after appointment the administrator of a company shall by notice in the prescribed form require one or more relevant persons to provide the administrator with a statement of the affairs of the company.
- (2) The statement must—
- (a) be verified by a statement of truth in accordance with Civil Procedure Rules,

- (b) be in the prescribed form,
- (c) give particulars of the company's property, debts and liabilities,
- (d) give the names and addresses of the company's creditors,
- (e) specify the security held by each creditor,
- (f) give the date on which each security was granted, and
- (g) contain such other information as may be prescribed.

(3) In sub-paragraph (1) “relevant person” means—

- (a) a person who is or has been an officer of the company,
- (b) a person who took part in the formation of the company during the period of one year ending with the date on which the company enters administration,
- (c) a person employed by the company during that period, and
- (d) a person who is or has been during that period an officer or employee of a company which is or has been during that year an officer of the company.

(4) For the purpose of sub-paragraph (3) a reference to employment is a reference to employment through a contract of employment or a contract for services.

(5) In Scotland, a statement of affairs under sub-paragraph (1) must be a statutory declaration made in accordance with the Statutory Declarations Act 1835 (c. 62) (and sub-paragraph (2)(a) shall not apply).


] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 47(1)-(5): United Kingdom

 Law In Force

[48

(1) A person required to submit a statement of affairs must do so before the end of the period of 11 days beginning with the day on which he receives notice of the requirement.

(2) The administrator may—

- (a) revoke a requirement under paragraph 47(1), or
- (b) extend the period specified in sub-paragraph (1) (whether before or after expiry).

(3) If the administrator refuses a request to act under sub-paragraph (2)—

- (a) the person whose request is refused may apply to the court, and
- (b) the court may take action of a kind specified in sub-paragraph (2).

(4) A person commits an offence if he fails without reasonable excuse to comply with a requirement under paragraph 47(1).

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)


Extent

Sch. B1 para. 48(1)-(4): United Kingdom

[Administrator's proposals]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[49

- (1) The administrator of a company shall make a statement setting out proposals for achieving the purpose of administration.
- (2) A statement under sub-paragraph (1) must, in particular—
- (a) deal with such matters as may be prescribed, and
 - (b) where applicable, explain why the administrator thinks that the objective mentioned in paragraph 3(1)(a) or (b) cannot be achieved.
- (3) Proposals under this paragraph may include—
- (a) a proposal for a voluntary arrangement under Part I of this Act (although this paragraph is without prejudice to section 4(3));
 - (b) a proposal for a compromise or arrangement to be sanctioned under [[Part 26 or 26A of the Companies Act 2006]³ (arrangements and reconstructions)]² .
- (4) The administrator shall send a copy of the statement of his proposals—
- (a) to the registrar of companies,
 - (b) to every creditor of the company [, other than an opted-out creditor,]⁴ of whose claim and address he is aware, and
 - (c) to every member of the company of whose address he is aware.
- (5) The administrator shall comply with sub-paragraph (4)—
- (a) as soon as is reasonably practicable after the company enters administration, and
 - (b) in any event, before the end of the period of eight weeks beginning with the day on which the company enters administration.
- (6) The administrator shall be taken to comply with sub-paragraph (4)(c) if he publishes in the prescribed manner a notice undertaking to provide a copy of the statement of proposals free of charge to any member of the company who applies in writing to a specified address.

(7) An administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (5).

(8) A period specified in this paragraph may be varied in accordance with paragraph 107.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Words substituted by Companies Act 2006 (Consequential Amendments etc) Order 2008/948 Sch.1(2) para.100(a) (April 6, 2008: substitution has effect subject to savings specified in SI 2008/948 arts 11 and 12)
- ³ Words inserted by Corporate Insolvency and Governance Act 2020 c. 12 Sch.9(2) para.7(2) (June 26, 2020)
- ⁴ Words inserted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(2) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

Extent

Sch. B1 para. 49(1)-(8): United Kingdom

*[Creditors' meeting]*¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
[Scotland](#) | [England and Wales](#)

 Repealed

Scotland

50 [...] ¹

Notes

- ¹ Repealed by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(3) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
-

England and Wales

[...]¹

Notes

- ¹ Repealed by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(3) (April 6, 2017: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2017 in relation to England and Wales as specified in SI 2016/1020 reg.4(e) subject to transitional and saving provisions specified in SI 2016/1020 reg.5 and SI 2017/540 reg.4)

[[...]² [Consideration of administrator's proposals by creditors [...]²]³]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Heading substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(4) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
- ³ Heading substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(4) (April 6, 2017: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2017 in relation to England and Wales as specified in SI 2016/1020 reg.4(e) subject to transitional and saving provisions specified in SI 2016/1020 reg.5 and SI 2017/540 reg.4)

✓ Law In Force

[51

[(1) The administrator must seek a decision from the company's creditors as to whether they approve the proposals set out in the statement made under paragraph 49(1).

(2) The initial decision date for that decision must be within the period of 10 weeks beginning with the day on which the company enters administration.

(3) The “initial decision date” for that decision—

- (a) if the decision is initially sought using the deemed consent procedure, is the date on which a decision will be made if the creditors by that procedure approve the proposals, and
- (b) if the decision is initially sought using a qualifying decision procedure, is the date on or before which a decision will be made if it is made by that qualifying decision procedure (assuming that date does not change after the procedure is instigated).

] ²

(4) A period specified in this paragraph may be varied in accordance with paragraph 107.

(5) An administrator commits an offence if he fails without reasonable excuse to comply with a requirement of this paragraph.

] ¹


Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

² Substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(5) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

Extent

Sch. B1 para. 51(1)-(5): United Kingdom

 Law In Force

[52

(1) Paragraph 51(1) shall not apply where the statement of proposals states that the administrator thinks—

- (a) that the company has sufficient property to enable each creditor of the company to be paid in full,
- (b) that the company has insufficient property to enable a distribution to be made to unsecured creditors other than by virtue of section 176A(2)(a), or
- (c) that neither of the objectives specified in paragraph 3(1)(a) and (b) can be achieved.

(2) But the administrator shall [seek a decision from the company's creditors as to whether they approve the proposals set out in the statement made under paragraph 49(1) if requested to do so] ²

-
- (a) by creditors of the company whose debts amount to at least 10% of the total debts of the company,
 - (b) in the prescribed manner, and
 - (c) in the prescribed period.

[(3) Where a decision is sought by virtue of sub-paragraph (2) the initial decision date (as defined in paragraph 51(3)) must be within the prescribed period.] ³

(4) The period prescribed under sub-paragraph (3) may be varied in accordance with paragraph 107.

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

- ² Substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(6) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
- ³ Substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(7) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

Extent

Sch. B1 para. 52(1)-(3): United Kingdom

[[...]² [Creditors' decision [...]²]³]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Heading substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(8) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
- ³ Heading substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(8) (April 6, 2017: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2017 in relation to England and Wales as specified in SI 2016/1020 reg.4(e) subject to transitional and saving provisions specified in SI 2016/1020 reg.5 and SI 2017/540 reg.4)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
[Scotland](#) | [England and Wales](#)

✓ Law In Force

Scotland

[53

- (1) [The company's creditors may approve the administrator's proposals—]²
 [(a) without modification, or
 (b) with modification to which the administrator consents.]²

(2) [The]³ administrator shall as soon as is reasonably practicable report any decision taken [by the company's creditors]⁴ to—

- (a) the court,
- (b) the registrar of companies, and
- (c) such other persons as may be prescribed.

(3) An administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (2).

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(9) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
- ³ Words substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(10)(a) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
- ⁴ Words inserted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(10)(b) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

England and Wales

[53

(1) The company's creditors may approve the administrator's proposals—

- (a) without modification, or
- (b) with modification to which the administrator consents.

(2) [The]² administrator shall as soon as is reasonably practicable report any decision taken [by the company's creditors]³ to—

- (a) the court,
- (b) the registrar of companies, and
- (c) such other persons as may be prescribed.

(3) An administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (2).

] ¹

Notes

- ¹ Substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(9) (April 6, 2017: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2017 in relation to England and Wales as specified in SI 2016/1020 reg.4(e) subject to transitional and saving provisions specified in SI 2016/1020 reg.5 and SI 2017/540 reg.4)
- ² Words substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(10)(a) (April 6, 2017: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2017 in relation to England and Wales as specified in SI 2016/1020 reg.4(e) subject to transitional and saving provisions specified in SI 2016/1020 reg.5 and SI 2017/540 reg.4)
- ³ Words inserted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(10)(b) (April 6, 2017: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2017 in relation to England and Wales as specified in SI 2016/1020 reg.4(e) subject to transitional and saving provisions specified in SI 2016/1020 reg.5 and SI 2017/540 reg.4)

Extent

Sch. B1 para. 53(1)-(3): United Kingdom

[Revision of administrator's proposals]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[54

(1) This paragraph applies where—

- (a) an administrator's proposals have been approved (with or without modification) [by the company's creditors]² ,
- (b) the administrator proposes a revision to the proposals, and
- (c) the administrator thinks that the proposed revision is substantial.

(2) The administrator shall—

- (a) [...] ³
- (b) send a statement in the prescribed form of the proposed revision [...] ⁴ to each creditor [who is not an opted-out creditor] ⁵ ,
- (c) send a copy of the statement, within the prescribed period, to each member of the company of whose address he is aware, and

[(d) seek a decision from the company's creditors as to whether they approve the proposed revision.]⁶

(3) The administrator shall be taken to have complied with sub-paragraph (2)(c) if he publishes a notice undertaking to provide a copy of the statement free of charge to any member of the company who applies in writing to a specified address.

(4) A notice under sub-paragraph (3) must be published—
(a) in the prescribed manner, and
(b) within the prescribed period.

[(5) The company's creditors may approve the proposed revision—
(a) without modification, or
(b) with modification to which the administrator consents.

] ⁷

(6) [The]⁸ administrator shall as soon as is reasonably practicable report any decision taken [by the company's creditors]⁹ to—

(a) the court,
(b) the registrar of companies, and
(c) such other persons as may be prescribed.

(7) An administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (6).

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

² Words substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(11) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

³ Repealed by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(12) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

⁴ Words repealed by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(13)(a) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

⁵ Words inserted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(13)(b) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

⁶ Substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(14) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory

instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

⁷ Substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(15) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

⁸ Words substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(16)(a) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

⁹ Words inserted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(16)(b) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

Extent

Sch. B1 para. 54(1)-(7): United Kingdom

[Failure to obtain approval of administrator's proposals]¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

✓ Law In Force

[55

[(1) This paragraph applies where an administrator—

(a) reports to the court under paragraph 53 that a company's creditors have failed to approve the administrator's proposals, or

(b) reports to the court under paragraph 54 that a company's creditors have failed to approve a revision of the administrator's proposals.

] ²

(2) The court may—

(a) provide that the appointment of an administrator shall cease to have effect from a specified time;

(b) adjourn the hearing conditionally or unconditionally;

(c) make an interim order;

(d) make an order on a petition for winding up suspended by virtue of paragraph 40(1)(b);

(e) make any other order (including an order making consequential provision) that the court thinks appropriate.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(17) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

Extent

Sch. B1 para. 55(1)-(2)(e): United Kingdom

[[...]² [Further creditors' decisions [...]²]³]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Heading substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(18) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
- ³ Word substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(18) (April 6, 2017: May 26, 2015 for the limited purposes of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2017 in relation to England and Wales subject to transitional and saving provisions specified in SI 2016/1020 reg.5 and SI 2017/540 reg.4; not yet in force otherwise)
-

✓ Law In Force

[56

- (1) The administrator of a company shall [seek a decision from the company's creditors on a matter]² if—
- (a) it is requested in the prescribed manner by creditors of the company whose debts amount to at least 10% of the total debts of the company, or
- (b) he is directed by the court to [do so]³ .
- (2) An administrator commits an offence if he fails without reasonable excuse to [seek a decision from the company's creditors on a matter]⁴ as required by this paragraph.
- ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

- ² Words substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(19)(a) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
- ³ Words substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(19)(b) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
- ⁴ Words substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(20) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

Extent

Sch. B1 para. 56(1)-(2): United Kingdom

[Creditors' committee]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

✓ Law In Force

[57

- (1) [The company's creditors may, in accordance with the rules,]² establish a creditors' committee.
- (2) A creditors' committee shall carry out functions conferred on it by or under this Act.
- (3) A creditors' committee may require the administrator—
- (a) to attend on the committee at any reasonable time of which he is given at least seven days' notice, and
 - (b) to provide the committee with information about the exercise of his functions.

]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Words substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(21) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

Extent

Sch. B1 para. 57(1)-(3)(b): United Kingdom

[Correspondence instead of creditors' meeting]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

[Scotland](#) | [England and Wales](#)

 Repealed

Scotland

58 [...] ¹

Notes

- ¹ Repealed by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(22) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

England and Wales

[...] ¹

Notes

- ¹ Repealed by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(22) (April 6, 2017: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2017 in relation to England and Wales as specified in SI 2016/1020 reg.4(e) subject to transitional and saving provisions specified in SI 2016/1020 reg.5 and SI 2017/540 reg.4)

[FUNCTIONS OF ADMINISTRATOR

] ¹


Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

*[General powers]*¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[59

- (1) The administrator of a company may do anything necessary or expedient for the management of the affairs, business and property of the company.
- (2) A provision of this Schedule which expressly permits the administrator to do a specified thing is without prejudice to the generality of sub-paragraph (1).
- (3) A person who deals with the administrator of a company in good faith and for value need not inquire whether the administrator is acting within his powers.


] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 59(1)-(3): United Kingdom

 Law In Force

[60

- [(1) The administrator of a company has the powers specified in Schedule 1 to this Act.
- (2) But the power to sell, hire out or otherwise dispose of property is subject to any regulations that may be made under paragraph 60A.] ²

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Existing Sch.B1 para.60 renumbered as Sch.B1 para.60(1) and Sch.B1 para.60(2) inserted by Small Business, Enterprise and Employment Act 2015 c. 26 Pt 10 s.129 (May 26, 2015)

Extent

Sch. B1 para. 60(1)-(2): United Kingdom

✓ Law In Force

[60A

- (1) The Secretary of State may by regulations make provision for—
- (a) prohibiting, or
 - (b) imposing requirements or conditions in relation to,
- the disposal, hiring out or sale of property of a company by the administrator to a connected person in circumstances specified in the regulations.
- (2) Regulations under this paragraph may in particular require the approval of, or provide for the imposition of requirements or conditions by—
- (a) creditors of the company,
 - (b) the court, or
 - (c) a person of a description specified in the regulations.
- (3) In sub-paragraph (1), “connected person”, in relation to a company, means—
- (a) a relevant person in relation to the company, or
 - (b) a company connected with the company.
- (4) For the purposes of sub-paragraph (3)—
- (a) “relevant person”, in relation to a company, means—
 - (i) a director or other officer, or shadow director, of the company;
 - (ii) a non-employee associate of such a person;
 - (iii) a non-employee associate of the company;
 - (b) a company is connected with another if any relevant person of one is or has been a relevant person of the other.
- (5) In sub-paragraph (4), “non-employee associate” of a person means a person who is an associate of that person otherwise than by virtue of employing or being employed by that person.
- (6) Subsection (10) of section 435 (extended definition of company) applies for the purposes of sub-paragraphs (3) to (5) as it applies for the purposes of that section.
- (7) Regulations under this paragraph may—
- (a) make different provision for different purposes;
 - (b) make incidental, consequential, supplemental and transitional provision.
- (8) Regulations under this paragraph are to be made by statutory instrument.

(9) Regulations under this paragraph may not be made unless a draft of the statutory instrument containing the regulations has been laid before Parliament and approved by a resolution of each House of Parliament.

[(10) This paragraph expires at the end of June 2021 unless the power conferred by it is exercised before then.]²

] ¹


Notes

¹ Added by Small Business, Enterprise and Employment Act 2015 c. 26 Pt 10 s.129(4) (May 26, 2015)

² Substituted by Corporate Insolvency and Governance Act 2020 c. 12 s.8(2) (June 26, 2020)

Extent

Sch. B1 para. 60A(1)-(10): United Kingdom

 Law In Force

[61

The administrator of a company—

(a) may remove a director of the company, and

(b) may appoint a director of the company (whether or not to fill a vacancy).

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 61(a)-(b): United Kingdom

 Law In Force

[62

The administrator of a company [may—]²

[(a) call a meeting of members of the company;

(b) seek a decision on any matter from the company's creditors.]²

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

² Word and Sch.B1 para.62(a) and (b) substituted for words by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(23) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

Extent

Sch. B1 para. 62(a)-(b): United Kingdom

✓ Law In Force

[63

The administrator of a company may apply to the court for directions in connection with his functions.

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 63: United Kingdom

✓ Law In Force

[64

(1) A company in administration or an officer of a company in administration may not exercise a management power without the consent of the administrator.

(2) For the purpose of sub-paragraph (1)—

- (a) “management power” means a power which could be exercised so as to interfere with the exercise of the administrator's powers,
- (b) it is immaterial whether the power is conferred by an enactment or an instrument, and
- (c) consent may be general or specific.

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 64(1)-(2)(c): United Kingdom

*[Distribution]*¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[64A

- (1) This paragraph applies where a company enters administration before the end of the period of 12 weeks beginning with the day after the end of any moratorium for the company under Part A1.
- (2) The administrator must make a distribution to the creditors of the company in respect of—
- (a) moratorium debts (within the meaning given by section 174A), and
 - (b) priority pre-moratorium debts (within the meaning given by section 174A).
- (3) A sum payable under sub-paragraph (2) is to be paid in priority to—
- (a) any security to which paragraph 70 applies or paragraph 115(1) applies;
 - (b) any sums payable under paragraph 99.
- (4) The administrator must realise any property necessary to comply with sub-paragraph (2).
- (5) The rules may make provision as to the order in which the moratorium and priority pre-moratorium debts rank among themselves for the purposes of this paragraph in a case where the assets of the company are insufficient to meet them in full.
- ¹

Notes

- ¹ Added by Corporate Insolvency and Governance Act 2020 c. 12 Sch.3 para.31(3) (June 26, 2020)

Extent

Sch. B1 para. 64A(1)-(5): United Kingdom

✓ Law In Force

[65

- [(1) If the assets of a company are sufficient to meet any debts or other liabilities payable under paragraph 64A in full, the administrator of the company may make a distribution to any other creditor of the company.]²
- (2) [Sections 175 and 176AZA]³ shall apply in relation to a distribution under this paragraph as [they apply]⁴ in relation to a winding up.
- (3) A payment may not be made by way of distribution under this paragraph to a creditor of the company who is neither secured nor preferential [unless—]⁵
- [(a) the distribution is made by virtue of section 176A(2)(a), or
 - (b) the court gives permission.]⁵


] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Substituted by Corporate Insolvency and Governance Act 2020 c. 12 Sch.3 para.31(4) (June 26, 2020)
- ³ Words substituted by Banks and Building Societies (Priorities on Insolvency) Order 2018/1244 Pt 2 art.13(2)(a) (December 19, 2018)
- ⁴ Words substituted by Banks and Building Societies (Priorities on Insolvency) Order 2018/1244 Pt 2 art.13(2)(b) (December 19, 2018)
- ⁵ Existing text renumbered as Sch.B1 para.65(3)(b) and Sch.B1 para.65(3)(a) and word substituted for word by Small Business, Enterprise and Employment Act 2015 c. 26 Pt 10 s.128(2) (May 26, 2015)

Extent

Sch. B1 para. 65(1)-(3)(b): United Kingdom

 Law In Force

[66

[If the debts and other liabilities payable under paragraph 64A have been met, the administrator of a company] ² may make a payment otherwise than in accordance with paragraph 65 or paragraph 13 of Schedule 1 if he thinks it likely to assist achievement of the purpose of administration.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Words substituted by Corporate Insolvency and Governance Act 2020 c. 12 Sch.3 para.31(5) (June 26, 2020)

Extent

Sch. B1 para. 66: United Kingdom

[General duties] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[67

The administrator of a company shall on his appointment take custody or control of all the property to which he thinks the company is entitled.

]¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 67: United Kingdom

✓ Law In Force

[68

(1) Subject to sub-paragraph (2), the administrator of a company shall manage its affairs, business and property in accordance with—

- (a) any proposals approved under paragraph 53,
- (b) any revision of those proposals which is made by him and which he does not consider substantial, and
- (c) any revision of those proposals approved under paragraph 54.

(2) If the court gives directions to the administrator of a company in connection with any aspect of his management of the company's affairs, business or property, the administrator shall comply with the directions.

(3) The court may give directions under sub-paragraph (2) only if—

- (a) no proposals have been approved under paragraph 53,
- (b) the directions are consistent with any proposals or revision approved under paragraph 53 or 54,
- (c) the court thinks the directions are required in order to reflect a change in circumstances since the approval of proposals or a revision under paragraph 53 or 54, or
- (d) the court thinks the directions are desirable because of a misunderstanding about proposals or a revision approved under paragraph 53 or 54.

]¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)


Extent

Sch. B1 para. 68(1)-(3)(d): United Kingdom

[Administrator as agent of company]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[69

In exercising his functions under this Schedule the administrator of a company acts as its agent.
]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)


Extent

Sch. B1 para. 69: United Kingdom

[Charged property: floating charge]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[70

(1) The administrator of a company may dispose of or take action relating to property which is subject to a floating charge as if it were not subject to the charge.

(2) Where property is disposed of in reliance on sub-paragraph (1) the holder of the floating charge shall have the same priority in respect of acquired property as he had in respect of the property disposed of.

(3) In sub-paragraph (2) “acquired property” means property of the company which directly or indirectly represents the property disposed of.

]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 70(1)-(3): United Kingdom

[Charged property: non-floating charge]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[71

- (1) The court may by order enable the administrator of a company to dispose of property which is subject to a security (other than a floating charge) as if it were not subject to the security.
- (2) An order under sub-paragraph (1) may be made only—
- (a) on the application of the administrator, and
 - (b) where the court thinks that disposal of the property would be likely to promote the purpose of administration in respect of the company.
- (3) An order under this paragraph is subject to the condition that there be applied towards discharging the sums secured by the security—
- (a) the net proceeds of disposal of the property, and
 - (b) any additional money required to be added to the net proceeds so as to produce the amount determined by the court as the net amount which would be realised on a sale of the property at market value.
- (4) If an order under this paragraph relates to more than one security, application of money under sub-paragraph (3) shall be in the order of the priorities of the securities.
- (5) An administrator who makes a successful application for an order under this paragraph shall send a copy of the order to the registrar of companies before the end of the period of 14 days starting with the date of the order.
- (6) An administrator commits an offence if he fails to comply with sub-paragraph (5) without reasonable excuse.
-] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 71(1)-(6): United Kingdom

[Hire-purchase property]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[72

- (1) The court may by order enable the administrator of a company to dispose of goods which are in the possession of the company under a hire-purchase agreement as if all the rights of the owner under the agreement were vested in the company.
- (2) An order under sub-paragraph (1) may be made only—
- (a) on the application of the administrator, and
 - (b) where the court thinks that disposal of the goods would be likely to promote the purpose of administration in respect of the company.
- (3) An order under this paragraph is subject to the condition that there be applied towards discharging the sums payable under the hire-purchase agreement—
- (a) the net proceeds of disposal of the goods, and
 - (b) any additional money required to be added to the net proceeds so as to produce the amount determined by the court as the net amount which would be realised on a sale of the goods at market value.
- (4) An administrator who makes a successful application for an order under this paragraph shall send a copy of the order to the registrar of companies before the end of the period of 14 days starting with the date of the order.
- (5) An administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (4).
-] ¹**

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 72(1)-(5): United Kingdom

[Protection for [priority]² creditor]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

² Words substituted by Banks and Building Societies (Priorities on Insolvency) Order 2018/1244 Pt 2 art.13(3)(a) (December 19, 2018)

✓ Law In Force

[73

(1) An administrator's statement of proposals under paragraph 49 may not include any action which—

- (a) affects the right of a secured creditor of the company to enforce his security,
- (b) would result in a preferential debt of the company being paid otherwise than in priority to its non-preferential debts, [...]²
- [(bb) would result in an ordinary preferential debt of the company being paid otherwise than in priority to any secondary preferential debts that it may have,]³
- (c) would result in one preferential creditor of the company being paid a smaller proportion of [an ordinary preferential debt]⁴ than another [, [...]]⁶⁵
- [(d) would result in one preferential creditor of the company being paid a smaller proportion of a secondary preferential debt than another [, or]⁷]⁵
- [(e) if the company is a relevant financial institution (see section 387A), would result in any non-preferential debt being paid otherwise than in accordance with the rules in section 176AZA(2) or (3).]⁷

(2) Sub-paragraph (1) does not apply to—

- (a) action to which the relevant creditor consents,
- (b) a proposal for a voluntary arrangement under Part I of this Act (although this sub-paragraph is without prejudice to section 4(3)), [...] ⁸
- (c) a proposal for a compromise or arrangement to be sanctioned under [[Part 26 or 26A of the Companies Act 2006]¹⁰ (arrangements and reconstructions)]⁹ [.]¹¹
- (d) [...] ¹¹

(3) The reference to a statement of proposals in sub-paragraph (1) includes a reference to a statement as revised or modified.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Word repealed by Banks and Building Societies (Depositor Preference and Priorities) Order 2014/3486 Pt 2 art.10(2) (January 1, 2015: repeal has effect subject to transitional provisions specified in SI 2014/3486 art.3)
- ³ Added by Banks and Building Societies (Depositor Preference and Priorities) Order 2014/3486 Pt 2 art.10(3) (January 1, 2015: insertion has effect subject to transitional provisions specified in SI 2014/3486 art.3)
- ⁴ Words substituted by Banks and Building Societies (Depositor Preference and Priorities) Order 2014/3486 Pt 2 art.10(4) (January 1, 2015: substitution has effect subject to transitional provisions specified in SI 2014/3486 art.3)
- ⁵ Added by Banks and Building Societies (Depositor Preference and Priorities) Order 2014/3486 Pt 2 art.10(5) (January 1, 2015: insertion has effect subject to transitional provisions specified in SI 2014/3486 art.3)
- ⁶ Word repealed by Banks and Building Societies (Priorities on Insolvency) Order 2018/1244 Pt 2 art.13(3)(b) (December 19, 2018)
- ⁷ Added by Banks and Building Societies (Priorities on Insolvency) Order 2018/1244 Pt 2 art.13(3)(c) (December 19, 2018)

- ⁸ Word repealed by Companies (Cross-Border Mergers) Regulations 2007/2974 Pt 5 reg.65(2) (December 15, 2007)
- ⁹ Words substituted by Companies Act 2006 (Consequential Amendments etc) Order 2008/948 Sch.1(2) para.100(a) (April 6, 2008: substitution has effect subject to savings specified in SI 2008/948 arts 11 and 12)
- ¹⁰ Words inserted by Corporate Insolvency and Governance Act 2020 c. 12 Sch.9(2) para.7(3) (June 26, 2020)
- ¹¹ Repealed by Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019/348 Sch.3 para.1 (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

Extent

Sch. B1 para. 73(1)-(3): United Kingdom

[Challenge to administrator's conduct of company]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

✓ Law In Force

[74

- (1) A creditor or member of a company in administration may apply to the court claiming that—
- (a) the administrator is acting or has acted so as unfairly to harm the interests of the applicant (whether alone or in common with some or all other members or creditors), or
 - (b) the administrator proposes to act in a way which would unfairly harm the interests of the applicant (whether alone or in common with some or all other members or creditors).
- (2) A creditor or member of a company in administration may apply to the court claiming that the administrator is not performing his functions as quickly or as efficiently as is reasonably practicable.
- (3) The court may—
- (a) grant relief;
 - (b) dismiss the application;
 - (c) adjourn the hearing conditionally or unconditionally;
 - (d) make an interim order;
 - (e) make any other order it thinks appropriate.
- (4) In particular, an order under this paragraph may—
- (a) regulate the administrator's exercise of his functions;
 - (b) require the administrator to do or not do a specified thing;
 - [(c) require a decision of the company's creditors to be sought on a matter;]²
 - (d) provide for the appointment of an administrator to cease to have effect;
 - (e) make consequential provision.
- (5) An order may be made on a claim under sub-paragraph (1) whether or not the action complained of—
- (a) is within the administrator's powers under this Schedule;

(b) was taken in reliance on an order under paragraph 71 or 72.

(6) An order may not be made under this paragraph if it would impede or prevent the implementation of—

- (a) a voluntary arrangement approved under Part I,
- (b) a compromise or arrangement sanctioned under [[Part 26 or 26A of the Companies Act 2006]⁴ (arrangements and reconstructions)]³ , [or]⁵ [...]]⁶
- (ba) [...]]⁵
- (c) proposals or a revision approved under paragraph 53 or 54 more than 28 days before the day on which the application for the order under this paragraph is made.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(24) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
- ³ Words substituted by Companies Act 2006 (Consequential Amendments etc) Order 2008/948 Sch.1(2) para.100(b) (April 6, 2008: substitution has effect subject to savings specified in SI 2008/948 arts 11 and 12)
- ⁴ Words inserted by Corporate Insolvency and Governance Act 2020 c. 12 Sch.9(2) para.7(4) (June 26, 2020)
- ⁵ Repealed by Companies, Limited Liability Partnerships and Partnerships (Amendment etc.) (EU Exit) Regulations 2019/348 Sch.3 para.1 (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- ⁶ Word repealed by Companies (Cross-Border Mergers) Regulations 2007/2974 Pt 5 reg.65(4) (December 15, 2007)

Extent

Sch. B1 para. 74(1)-(6)(ba): United Kingdom

[Misfeasance] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[75

(1) The court may examine the conduct of a person who—

- (a) is or purports to be the administrator of a company, or
- (b) has been or has purported to be the administrator of a company.

(2) An examination under this paragraph may be held only on the application of—

- (a) the official receiver,
 - (b) the administrator of the company,
 - (c) the liquidator of the company,
 - (d) a creditor of the company, or
 - (e) a contributory of the company.
- (3) An application under sub-paragraph (2) must allege that the administrator—
- (a) has misapplied or retained money or other property of the company,
 - (b) has become accountable for money or other property of the company,
 - (c) has breached a fiduciary or other duty in relation to the company, or
 - (d) has been guilty of misfeasance.
- (4) On an examination under this paragraph into a person's conduct the court may order him—
- (a) to repay, restore or account for money or property;
 - (b) to pay interest;
 - (c) to contribute a sum to the company's property by way of compensation for breach of duty or misfeasance.
- (5) In sub-paragraph (3) “administrator” includes a person who purports or has purported to be a company's administrator.
- (6) An application under sub-paragraph (2) may be made in respect of an administrator who has been discharged under paragraph 98 only with the permission of the court.
-] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 75(1)-(6): United Kingdom

[ENDING ADMINISTRATION

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

[Automatic end of administration]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[76

(1) The appointment of an administrator shall cease to have effect at the end of the period of one year beginning with the date on which it takes effect.

(2) But—

- (a) on the application of an administrator the court may by order extend his term of office for a specified period, and
- (b) an administrator's term of office may be extended for a specified period not exceeding [one year]² by consent.

]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Words substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Pt 10 s.127 (May 26, 2015)

Extent

Sch. B1 para. 76(1)-(2)(b): United Kingdom

✓ Law In Force

[77

(1) An order of the court under paragraph 76—

- (a) may be made in respect of an administrator whose term of office has already been extended by order or by consent, but
- (b) may not be made after the expiry of the administrator's term of office.

(2) Where an order is made under paragraph 76 the administrator shall as soon as is reasonably practicable notify the registrar of companies.

(3) An administrator who fails without reasonable excuse to comply with sub-paragraph (2) commits an offence.

]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 77(1)-(3): United Kingdom

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
[Scotland](#) | [England and Wales](#)

✓ Law In Force

Scotland

[78

- (1) In paragraph 76(2)(b) “consent” means consent of—
(a) each secured creditor of the company, and
[(b) if the company has unsecured debts, the unsecured creditors of the company.]²
- (2) But where the administrator has made a statement under paragraph 52(1)(b) “consent” means—
(a) consent of each secured creditor of the company, or
(b) if the administrator thinks that a distribution may be made to preferential creditors, consent of—
(i) each secured creditor of the company, and
[(ii) the preferential creditors of the company.]³
- [(2A) Whether the company's unsecured creditors or preferential creditors consent is to be determined by the administrator seeking a decision from those creditors as to whether they consent.]⁴
- (3) [...] ⁵
- (4) An administrator's term of office—
(a) may be extended by consent only once,
(b) may not be extended by consent after extension by order of the court, and
(c) may not be extended by consent after expiry.
- (5) Where an administrator's term of office is extended by consent he shall as soon as is reasonably practicable—
(a) file notice of the extension with the court, and
(b) notify the registrar of companies.
- (6) An administrator who fails without reasonable excuse to comply with sub-paragraph (5) commits an offence.
] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

- ² Substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(25) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
- ³ Substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(26) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
- ⁴ Added by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(27) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
- ⁵ Repealed by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(28) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

England and Wales

[78

- (1) In paragraph 76(2)(b)“consent” means consent of—
- (a) each secured creditor of the company, and
 - (b) if the company has unsecured debts, the unsecured creditors of the company.
- (2) But where the administrator has made a statement under paragraph 52(1)(b)“consent” means—
- (a) consent of each secured creditor of the company, or
 - (b) if the administrator thinks that a distribution may be made to preferential creditors, consent of—
 - (i) each secured creditor of the company, and
 - [(ii) the preferential creditors of the company.] ²

[(2A) Whether the company's unsecured creditors or preferential creditors consent is to be determined by the administrator seeking a decision from those creditors as to whether they consent.] ³

(3) [...] ⁴

- (4) An administrator's term of office—
- (a) may be extended by consent only once,
 - (b) may not be extended by consent after extension by order of the court, and
 - (c) may not be extended by consent after expiry.
- (5) Where an administrator's term of office is extended by consent he shall as soon as is reasonably practicable—
- (a) file notice of the extension with the court, and
 - (b) notify the registrar of companies.

(6) An administrator who fails without reasonable excuse to comply with sub-paragraph (5) commits an offence.

] ¹

Notes

- ¹ Substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(25) (April 6, 2017: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2017 in relation to England and Wales as specified in SI 2016/1020 reg.4(e) subject to transitional and saving provisions specified in SI 2016/1020 reg.5 and SI 2017/540 reg.4)
- ² Substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(26) (April 6, 2017: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2017 in relation to England and Wales as specified in SI 2016/1020 reg.4(e) subject to transitional and saving provisions specified in SI 2016/1020 reg.5 and SI 2017/540 reg.4)
- ³ Added by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(27) (April 6, 2017: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2017 in relation to England and Wales as specified in SI 2016/1020 reg.4(e) subject to transitional and saving provisions specified in SI 2016/1020 reg.5 and SI 2017/540 reg.4)
- ⁴ Repealed by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(28) (April 6, 2017: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2017 in relation to England and Wales as specified in SI 2016/1020 reg.4(e) subject to transitional and saving provisions specified in SI 2016/1020 reg.5 and SI 2017/540 reg.4)


Extent

Sch. B1 para. 78(1)-(6): United Kingdom

[Court ending administration on application of administrator]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[79

(1) On the application of the administrator of a company the court may provide for the appointment of an administrator of the company to cease to have effect from a specified time.

(2) The administrator of a company shall make an application under this paragraph if—

- (a) he thinks the purpose of administration cannot be achieved in relation to the company,
- (b) he thinks the company should not have entered administration, or

(c) [the company's creditors decide that he must]² make an application under this paragraph.

(3) The administrator of a company shall make an application under this paragraph if—

- (a) the administration is pursuant to an administration order, and
- (b) the administrator thinks that the purpose of administration has been sufficiently achieved in relation to the company.

(4) On an application under this paragraph the court may—

- (a) adjourn the hearing conditionally or unconditionally;
- (b) dismiss the application;
- (c) make an interim order;
- (d) make any order it thinks appropriate (whether in addition to, in consequence of or instead of the order applied for).

]¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

² Words substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(29) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)


Extent

Sch. B1 para. 79(1)-(4)(d): United Kingdom

[Termination of administration where objective achieved]¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

 Law In Force

[80

(1) This paragraph applies where an administrator of a company is appointed under paragraph 14 or 22.

(2) If the administrator thinks that the purpose of administration has been sufficiently achieved in relation to the company he may file a notice in the prescribed form—

- (a) with the court, and
- (b) with the registrar of companies.

(3) The administrator's appointment shall cease to have effect when the requirements of sub-paragraph (2) are satisfied.

(4) Where the administrator files a notice he shall within the prescribed period send a copy to every creditor of the company [, other than an opted-out creditor,]² of whose claim and address he is aware.

(5) The rules may provide that the administrator is taken to have complied with sub-paragraph (4) if before the end of the prescribed period he publishes in the prescribed manner a notice undertaking to provide a copy of the notice under sub-paragraph (2) to any creditor of the company who applies in writing to a specified address.

(6) An administrator who fails without reasonable excuse to comply with sub-paragraph (4) commits an offence.

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

² Words inserted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(30) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)


Extent

Sch. B1 para. 80(1)-(6): United Kingdom

[Court ending administration on application of creditor]¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

 Law In Force

[81

(1) On the application of a creditor of a company the court may provide for the appointment of an administrator of the company to cease to have effect at a specified time.

(2) An application under this paragraph must allege an improper motive—

- (a) in the case of an administrator appointed by administration order, on the part of the applicant for the order, or
- (b) in any other case, on the part of the person who appointed the administrator.

(3) On an application under this paragraph the court may—

- (a) adjourn the hearing conditionally or unconditionally;

- (b) dismiss the application;
- (c) make an interim order;
- (d) make any order it thinks appropriate (whether in addition to, in consequence of or instead of the order applied for).

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 81(1)-(3)(d): United Kingdom

[Public interest winding-up] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[82

(1) This paragraph applies where a winding-up order is made for the winding up of a company in administration on a petition presented under—

- (a) section 124A (public interest), [...] ²
- [(aa) section 124B (SEs), or] ²
- (b) section 367 of the Financial Services and Markets Act 2000 (c. 8) (petition by [Financial Conduct Authority or Prudential Regulation Authority] ³).

(2) This paragraph also applies where a provisional liquidator of a company in administration is appointed following the presentation of a petition under any of the provisions listed in sub-paragraph (1).

(3) The court shall order—

- (a) that the appointment of the administrator shall cease to have effect, or
- (b) that the appointment of the administrator shall continue to have effect.

(4) If the court makes an order under sub-paragraph (3)(b) it may also—

- (a) specify which of the powers under this Schedule are to be exercisable by the administrator, and
- (b) order that this Schedule shall have effect in relation to the administrator with specified modifications.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Added by European Public Limited-Liability Company Regulations 2004/2326 Pt 5 reg.73(4)(c) (October 8, 2004)
- ³ Words substituted by Financial Services Act 2012 c. 21 Sch.18(2) para.55(4) (April 1, 2013)


Extent

Sch. B1 para. 82(1)-(4)(b): United Kingdom

[Moving from administration to creditors' voluntary liquidation]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[83

- (1) This paragraph applies in England and Wales where the administrator of a company thinks—
- (a) that the total amount which each secured creditor of the company is likely to receive has been paid to him or set aside for him, and
 - (b) that a distribution will be made to unsecured creditors of the company (if there are any) [which is not a distribution by virtue of section 176A(2)(a)]² .
- (2) This paragraph applies in Scotland where the administrator of a company thinks—
- (a) that each secured creditor of the company will receive payment in respect of his debt, and
 - (b) that a distribution will be made to unsecured creditors (if there are any) [which is not a distribution by virtue of section 176A(2)(a)]² .
- (3) The administrator may send to the registrar of companies a notice that this paragraph applies.
- (4) On receipt of a notice under sub-paragraph (3) the registrar shall register it.
- (5) If an administrator sends a notice under sub-paragraph (3) he shall as soon as is reasonably practicable—
- (a) file a copy of the notice with the court, and
 - (b) send a copy of the notice to each creditor [, other than an opted-out creditor,]³ of whose claim and address he is aware.
- (6) On the registration of a notice under sub-paragraph (3)—
- (a) the appointment of an administrator in respect of the company shall cease to have effect, and
 - (b) the company shall be wound up as if a resolution for voluntary winding up under section 84 were passed on the day on which the notice is registered.

- (7) The liquidator for the purposes of the winding up shall be—
- (a) a person nominated by the creditors of the company in the prescribed manner and within the prescribed period, or
 - (b) if no person is nominated under paragraph (a), the administrator.
- (8) In the application of Part IV to a winding up by virtue of this paragraph—
- (a) section 85 shall not apply,
 - (b) section 86 shall apply as if the reference to the time of the passing of the resolution for voluntary winding up were a reference to the beginning of the date of registration of the notice under sub-paragraph (3),
 - (c) section 89 does not apply,
 - (d) [sections 99 and 100]⁴ shall not apply,
 - (e) section 129 shall apply as if the reference to the time of the passing of the resolution for voluntary winding up were a reference to the beginning of the date of registration of the notice under sub-paragraph (3), and
 - (f) any creditors' committee which is in existence immediately before the company ceases to be in administration shall continue in existence after that time as if appointed as a liquidation committee under section 101.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Words inserted by Small Business, Enterprise and Employment Act 2015 c. 26 Pt 10 s.128(3) (May 26, 2015)
- ³ Words inserted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(31) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
- ⁴ Word repealed by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(32) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

Extent

Sch. B1 para. 83(1)-(8)(f): United Kingdom

[Moving from administration to dissolution]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[84

(1) If the administrator of a company thinks that the company has no property which might permit a distribution to its creditors, he shall send a notice to that effect to the registrar of companies.

(1A)-(1B) [...] ²

(2) The court may on the application of the administrator of a company disapply sub-paragraph (1) in respect of the company.

(3) On receipt of a notice under sub-paragraph (1) [...] ³ the registrar shall register it [...] ³ .

(4) On the registration of a notice in respect of a company under sub-paragraph (1) the appointment of an administrator of the company shall cease to have effect.

(5) If an administrator sends a notice under sub-paragraph (1) he shall as soon as is reasonably practicable—

- (a) file a copy of the notice with the court, and
- (b) send a copy of the notice to each creditor [, other than an opted-out creditor,] ⁴ of whose claim and address he is aware.

(6) At the end of the period of three months beginning with the date of registration of a notice in respect of a company under sub-paragraph (1) the company is deemed to be dissolved [...] ⁵ .

(6A)-(6B) [...] ⁶

(7) On an application in respect of a company by the administrator or another interested person the court may—

- (a) extend the period specified in sub-paragraph (6) [...] ⁷ ,
- (b) suspend that period, or
- (c) disapply sub-paragraph (6) [...] ⁷ .

(8) Where an order is made under sub-paragraph (7) in respect of a company the administrator shall as soon as is reasonably practicable notify the registrar of companies.

(9) An administrator commits an offence if he fails without reasonable excuse to comply with sub-paragraph (5).

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

² Repealed by Insolvency (Amendment) (EU Exit) Regulations 2019/146 Sch.1(2) para.44(a)(i) (December 31, 2020: repeal has effect subject to savings specified in SI 2019/146 regs 4 and 5)

³ Words repealed by Insolvency (Amendment) (EU Exit) Regulations 2019/146 Sch.1(2) para.44(a)(ii) (December 31, 2020: repeal has effect subject to savings specified in SI 2019/146 regs 4 and 5)

⁴ Words inserted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(33) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

⁵ Words repealed by Insolvency (Amendment) (EU Exit) Regulations 2019/146 Sch.1(2) para.44(a)(iii) (December 31, 2020: repeal has effect subject to savings specified in SI 2019/146 regs 4 and 5)

- ⁶ Repealed by Insolvency (Amendment) (EU Exit) Regulations 2019/146 Sch.1(2) para.44(a)(iv) (December 31, 2020: repeal has effect subject to savings specified in SI 2019/146 regs 4 and 5)
- ⁷ Words repealed by Insolvency (Amendment) (EU Exit) Regulations 2019/146 Sch.1(2) para.44(a)(v) (December 31, 2020: repeal has effect subject to savings specified in SI 2019/146 regs 4 and 5)

Extent

Sch. B1 para. 84(1)-(9): United Kingdom

[Discharge of administration order where administration ends]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[85

(1) This paragraph applies where—

- (a) the court makes an order under this Schedule providing for the appointment of an administrator of a company to cease to have effect, and
- (b) the administrator was appointed by administration order.

(2) The court shall discharge the administration order.

]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 85(1)-(2): United Kingdom

[Notice to Companies Registrar where administration ends]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[86

(1) This paragraph applies where the court makes an order under this Schedule providing for the appointment of an administrator to cease to have effect.

(2) The administrator shall send a copy of the order to the registrar of companies within the period of 14 days beginning with the date of the order.

(3) An administrator who fails without reasonable excuse to comply with sub-paragraph (2) commits an offence.

]¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 86(1)-(3): United Kingdom

[REPLACING ADMINISTRATOR

]¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

[Resignation of administrator]¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

✓ Law In Force

[87

(1) An administrator may resign only in prescribed circumstances.

(2) Where an administrator may resign he may do so only—

(a) in the case of an administrator appointed by administration order, by notice in writing to the court,

- (b) in the case of an administrator appointed under paragraph 14 , by notice in writing to the [holder of the floating charge by virtue of which the appointment was made]² ,
(c) in the case of an administrator appointed under paragraph 22(1), by notice in writing to the company, or
(d) in the case of an administrator appointed under paragraph 22(2), by notice in writing to the directors of the company.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
² Words substituted by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: commenced by an amendment)


Extent

Sch. B1 para. 87(1)-(2)(d): United Kingdom

[Removal of administrator from office]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[88

The court may by order remove an administrator from office.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 88: United Kingdom

[Administrator ceasing to be qualified]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[89

(1) The administrator of a company shall vacate office if he ceases to be qualified to act as an insolvency practitioner in relation to the company.

(2) Where an administrator vacates office by virtue of sub-paragraph (1) he shall give notice in writing—

- (a) in the case of an administrator appointed by administration order, to the court,
- (b) in the case of an administrator appointed under paragraph 14 , to the [holder of the floating charge by virtue of which the appointment was made]² ,
- (c) in the case of an administrator appointed under paragraph 22(1), to the company, or
- (d) in the case of an administrator appointed under paragraph 22(2), to the directors of the company.

(3) An administrator who fails without reasonable excuse to comply with sub-paragraph (2) commits an offence.

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

² Words substituted by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: commenced by an amendment)

Extent

Sch. B1 para. 89(1)-(3): United Kingdom

[Supplying vacancy in office of administrator]¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

✓ Law In Force

[90

Paragraphs 91 to 95 apply where an administrator—

- (a) dies,
- (b) resigns,
- (c) is removed from office under paragraph 88, or
- (d) vacates office under paragraph 89.


] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 90(a)-(d): United Kingdom

 Law In Force

[91

(1) Where the administrator was appointed by administration order, the court may replace the administrator on an application under this sub-paragraph made by—

- (a) a creditors' committee of the company,
- (b) the company,
- (c) the directors of the company,
- (d) one or more creditors of the company, or
- (e) where more than one person was appointed to act jointly or concurrently as the administrator, any of those persons who remains in office.

(2) But an application may be made in reliance on sub-paragraph (1)(b) to (d) only where—

- (a) there is no creditors' committee of the company,
- (b) the court is satisfied that the creditors' committee or a remaining administrator is not taking reasonable steps to make a replacement, or
- (c) the court is satisfied that for another reason it is right for the application to be made.


] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 91(1)-(2)(c): United Kingdom

 Law In Force

[92

Where the administrator was appointed under paragraph 14 the holder of the floating charge by virtue of which the appointment was made may replace the administrator.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 92: United Kingdom

✓ Law In Force

[93

(1) Where the administrator was appointed under paragraph 22(1) by the company it may replace the administrator.

(2) A replacement under this paragraph may be made only—

(a) with the consent of each person who is the holder of a qualifying floating charge in respect of the company's property, or

(b) where consent is withheld, with the permission of the court.

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 93(1)-(2)(b): United Kingdom

✓ Law In Force

[94

(1) Where the administrator was appointed under paragraph 22(2) the directors of the company may replace the administrator.

(2) A replacement under this paragraph may be made only—

(a) with the consent of each person who is the holder of a qualifying floating charge in respect of the company's property, or

(b) where consent is withheld, with the permission of the court.

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 94(1)-(2)(b): United Kingdom

✓ Law In Force

[95

The court may replace an administrator on the application of a person listed in paragraph 91(1) if the court—

- (a) is satisfied that a person who is entitled to replace the administrator under any of paragraphs 92 to 94 is not taking reasonable steps to make a replacement, or
- (b) that for another reason it is right for the court to make the replacement.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 95(a)-(b): United Kingdom

[Substitution of administrator: competing floating charge-holder]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[96

(1) This paragraph applies where an administrator of a company is appointed under paragraph 14 by the holder of a qualifying floating charge in respect of the company's property.

(2) The holder of a prior qualifying floating charge in respect of the company's property may apply to the court for the administrator to be replaced by an administrator nominated by the holder of the prior floating charge.

(3) One floating charge is prior to another for the purposes of this paragraph if—

- (a) it was created first, or
- (b) it is to be treated as having priority in accordance with an agreement to which the holder of each floating charge was party.

(4) Sub-paragraph (3) shall have effect in relation to Scotland as if the following were substituted for paragraph (a)—

“(a) it has priority of ranking in accordance with section 464(4)(b) of the Companies Act 1985 (c. 6),”.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)


Extent

Sch. B1 para. 96(1)-(4): United Kingdom

[Substitution of administrator appointed by company or directors: creditors' [decision]²]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Word substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(34) (April 6, 2017: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2017 in relation to England and Wales as specified in SI 2016/1020 reg.4(e) subject to transitional and saving provisions specified in SI 2016/1020 reg.5 and SI 2017/540 reg.4; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
-

 Law In Force

[97

(1) This paragraph applies where—

- (a) an administrator of a company is appointed by a company or directors under paragraph 22, and
- (b) there is no holder of a qualifying floating charge in respect of the company's property.

[(2) The administrator may be replaced by a decision of the creditors made by a qualifying decision procedure.

(3) The decision has effect only if, before the decision is made, the new administrator has consented to act in writing.]²

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(35) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

Extent

Sch. B1 para. 97(1)-(3): United Kingdom

[Vacation of office: discharge from liability]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

✓ Law In Force

[98

(1) Where a person ceases to be the administrator of a company (whether because he vacates office by reason of resignation, death or otherwise, because he is removed from office or because his appointment ceases to have effect) he is discharged from liability in respect of any action of his as administrator.

(2) The discharge provided by sub-paragraph (1) takes effect—

- (a) in the case of an administrator who dies, on the filing with the court of notice of his death,
- (b) in the case of an administrator appointed under paragraph 14 or 22 [who has not made a statement under paragraph 52(1)(b)]², at a time appointed by resolution of the creditors' committee or, if there is no committee, by [decision]³ of the creditors, [...] ⁴
[(ba) in the case of an administrator appointed under paragraph 14 or 22 who has made a statement under paragraph 52(1)(b), at a time decided by the relevant creditors, or] ⁴
- (c) in any case, at a time specified by the court.

(3) [For the purposes of sub-paragraph (2)(ba), the “relevant creditors” of a company are—]⁵

- (a) each secured creditor of the company, or
- (b) if the administrator has made a distribution to preferential creditors or thinks that a distribution may be made to preferential creditors—
 - (i) each secured creditor of the company, and
 - [(ii) the preferential creditors of the company.]⁶

[(3A) In a case where the administrator is removed from office, a decision of the creditors for the purposes of sub-paragraph (2)(b), or of the preferential creditors for the purposes of sub-paragraph (2)(ba), must be made by a qualifying decision procedure.]⁷

(4) Discharge—

- (a) applies to liability accrued before the discharge takes effect, and
- (b) does not prevent the exercise of the court's powers under paragraph 75.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Words inserted by Deregulation Act 2015 c. 20 Sch.6(2) para.7(2) (October 1, 2015)
- ³ Word substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(36) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
- ⁴ Added by Deregulation Act 2015 c. 20 Sch.6(2) para.7(3) (October 1, 2015)
- ⁵ Words substituted by Deregulation Act 2015 c. 20 Sch.6(2) para.7(4)(a) (October 1, 2015)
- ⁶ Substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(37) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
- ⁷ Added by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(38) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

Extent

Sch. B1 para. 98(1)-(4)(b): United Kingdom

[Vacation of office: charges and liabilities]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[99

(1) This paragraph applies where a person ceases to be the administrator of a company (whether because he vacates office by reason of resignation, death or otherwise, because he is removed from office or because his appointment ceases to have effect).

(2) In this paragraph—

“the former administrator” means the person referred to in sub-paragraph (1), and
“cessation” means the time when he ceases to be the company's administrator.

(3) The former administrator's remuneration and expenses shall be—

(a) charged on and payable out of property of which he had custody or control immediately before cessation, and

- (b) payable in priority to any security to which paragraph 70 applies.
- (4) A sum payable in respect of a debt or liability arising out of a contract entered into by the former administrator or a predecessor before cessation shall be—
- (a) charged on and payable out of property of which the former administrator had custody or control immediately before cessation, and
 - (b) payable in priority to any charge arising under sub-paragraph (3).
- (5) Sub-paragraph (4) shall apply to a liability arising under a contract of employment which was adopted by the former administrator or a predecessor before cessation; and for that purpose—
- (a) action taken within the period of 14 days after an administrator's appointment shall not be taken to amount or contribute to the adoption of a contract,
 - (b) no account shall be taken of a liability which arises, or in so far as it arises, by reference to anything which is done or which occurs before the adoption of the contract of employment, and
 - (c) no account shall be taken of a liability to make a payment other than wages or salary.
- (6) In sub-paragraph (5)(c) “wages or salary” includes—
- (a) a sum payable in respect of a period of holiday (for which purpose the sum shall be treated as relating to the period by reference to which the entitlement to holiday accrued),
 - (b) a sum payable in respect of a period of absence through illness or other good cause,
 - (c) a sum payable in lieu of holiday, [and]²
 - (d) [...] ²
 - (e) a contribution to an occupational pension scheme.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Repealed by Deregulation Act 2015 c. 20 Sch.6(7) para.27 (May 26, 2015)

Extent

Sch. B1 para. 99(1)-(6)(e): United Kingdom

[GENERAL

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

[Joint and concurrent administrators]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[100

(1) In this Schedule—

- (a) a reference to the appointment of an administrator of a company includes a reference to the appointment of a number of persons to act jointly or concurrently as the administrator of a company, and
- (b) a reference to the appointment of a person as administrator of a company includes a reference to the appointment of a person as one of a number of persons to act jointly or concurrently as the administrator of a company.

(2) The appointment of a number of persons to act as administrator of a company must specify—

- (a) which functions (if any) are to be exercised by the persons appointed acting jointly, and
- (b) which functions (if any) are to be exercised by any or all of the persons appointed.

¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 100(1)-(2)(b): United Kingdom

✓ Law In Force

[101

(1) This paragraph applies where two or more persons are appointed to act jointly as the administrator of a company.

(2) A reference to the administrator of the company is a reference to those persons acting jointly.

(3) But a reference to the administrator of a company in paragraphs 87 to 99 of this Schedule is a reference to any or all of the persons appointed to act jointly.

(4) Where an offence of omission is committed by the administrator, each of the persons appointed to act jointly—

- (a) commits the offence, and
- (b) may be proceeded against and punished individually.

(5) The reference in paragraph 45(1)(a) to the name of the administrator is a reference to the name of each of the persons appointed to act jointly.

(6) Where persons are appointed to act jointly in respect of only some of the functions of the administrator of a company, this paragraph applies only in relation to those functions.

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 101(1)-(6): United Kingdom

✓ Law In Force

[102

(1) This paragraph applies where two or more persons are appointed to act concurrently as the administrator of a company.

(2) A reference to the administrator of a company in this Schedule is a reference to any of the persons appointed (or any combination of them).

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 102(1)-(2): United Kingdom

✓ Law In Force

[103

(1) Where a company is in administration, a person may be appointed to act as administrator jointly or concurrently with the person or persons acting as the administrator of the company.

(2) Where a company entered administration by administration order, an appointment under sub-paragraph (1) must be made by the court on the application of—

- (a) a person or group listed in paragraph 12(1)(a) to (e), or
- (b) the person or persons acting as the administrator of the company.

(3) Where a company entered administration by virtue of an appointment under paragraph 14, an appointment under sub-paragraph (1) must be made by—

- (a) the holder of the floating charge by virtue of which the appointment was made, or

(b) the court on the application of the person or persons acting as the administrator of the company.

(4) Where a company entered administration by virtue of an appointment under paragraph 22(1), an appointment under sub-paragraph (1) above must be made either by the court on the application of the person or persons acting as the administrator of the company or—

(a) by the company, and

(b) with the consent of each person who is the holder of a qualifying floating charge in respect of the company's property or, where consent is withheld, with the permission of the court.

(5) Where a company entered administration by virtue of an appointment under paragraph 22(2), an appointment under sub-paragraph (1) must be made either by the court on the application of the person or persons acting as the administrator of the company or—

(a) by the directors of the company, and

(b) with the consent of each person who is the holder of a qualifying floating charge in respect of the company's property or, where consent is withheld, with the permission of the court.

(6) An appointment under sub-paragraph (1) may be made only with the consent of the person or persons acting as the administrator of the company.

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)


Extent

Sch. B1 para. 103(1)-(6): United Kingdom

[Presumption of validity] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

 Law In Force

[104

An act of the administrator of a company is valid in spite of a defect in his appointment or qualification.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

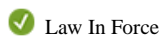
Extent

Sch. B1 para. 104: United Kingdom

[Majority decision of directors]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-



Law In Force

[105

A reference in this Schedule to something done by the directors of a company includes a reference to the same thing done by a majority of the directors of a company.

¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 105: United Kingdom

[Penalties]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-



Law In Force

[106

(1) A person who is guilty of an offence under this Schedule is liable to a fine (in accordance with section 430 and Schedule 10).

(2) A person who is guilty of an offence under any of the following paragraphs of this Schedule is liable to a daily default fine (in accordance with section 430 and Schedule 10)—

- (a) paragraph 20,
- (b) paragraph 32,
- (c) paragraph 46,
- (d) paragraph 48,
- (e) paragraph 49,
- (f) paragraph 51,
- (g) paragraph 53,
- (h) paragraph 54,
- (i) paragraph 56,
- (j) paragraph 71,
- (k) paragraph 72,
- (l) paragraph 77,
- (m) paragraph 78,
- (n) paragraph 80,
- (o) paragraph 84,
- (p) paragraph 86, and
- (q) paragraph 89.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)


Extent

Sch. B1 para. 106(1)-(2)(q): United Kingdom

[Extension of time limit] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

 Law In Force

[107

(1) Where a provision of this Schedule provides that a period may be varied in accordance with this paragraph, the period may be varied in respect of a company—

- (a) by the court, and
- (b) on the application of the administrator.

(2) A time period may be extended in respect of a company under this paragraph—

- (a) more than once, and

(b) after expiry.

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 107(1)-(2)(b): United Kingdom

✓ Law In Force

[108

(1) A period specified in [paragraph 49(5) or 51(2)] ² may be varied in respect of a company by the administrator with consent.

(2) In sub-paragraph (1) “consent” means consent of—

(a) each secured creditor of the company, and

[(b) if the company has unsecured debts, the unsecured creditors of the company.] ³

(3) But where the administrator has made a statement under paragraph 52(1)(b) “consent” means—

(a) consent of each secured creditor of the company, or

(b) if the administrator thinks that a distribution may be made to preferential creditors, consent of—

(i) each secured creditor of the company, and

[(ii) the preferential creditors of the company.] ⁴

[(3A) Whether the company's unsecured creditors or preferential creditors consent is to be determined by the administrator seeking a decision from those creditors as to whether they consent.] ⁵

(4) [...] ⁶

(5) The power to extend under sub-paragraph (1)—

(a) may be exercised in respect of a period only once,

(b) may not be used to extend a period by more than 28 days,

(c) may not be used to extend a period which has been extended by the court, and

(d) may not be used to extend a period after expiry.

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

² Word repealed by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(39) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)


³ Substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(40) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited

purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

- ⁴ Substituted by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(41) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
- ⁵ Added by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(42) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
- ⁶ Repealed by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(43) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)

Extent

Sch. B1 para. 108(1)-(5)(d): United Kingdom

 Law In Force

[109

Where a period is extended under paragraph 107 or 108, a reference to the period shall be taken as a reference to the period as extended.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 109: United Kingdom

[Amendment of provision about time] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[110

- (1) The Secretary of State may by order amend a provision of this Schedule which—
- (a) requires anything to be done within a specified period of time,
 - (b) prevents anything from being done after a specified time, or
 - (c) requires a specified minimum period of notice to be given.
- (2) An order under this paragraph—
- (a) must be made by statutory instrument, and
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 110(1)-(2)(b): United Kingdom

[Interpretation] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
-

✓ Law In Force

[111

- (1) In this Schedule—
- “administrative receiver” has the meaning given by section 251,
 - “administrator” has the meaning given by paragraph 1 and, where the context requires, includes a reference to a former administrator,
 - [...] ² [...] ³
 - “enters administration” has the meaning given by paragraph 1,
 - “floating charge” means a charge which is a floating charge on its creation,
 - “in administration” has the meaning given by paragraph 1,
 - “hire-purchase agreement” includes a conditional sale agreement, a chattel leasing agreement and a retention of title agreement,
 - “holder of a qualifying floating charge” in respect of a company's property has the meaning given by paragraph 14,
 - “market value” means the amount which would be realised on a sale of property in the open market by a willing vendor,
 - “the purpose of administration” means an objective specified in paragraph 3, and

“unable to pay its debts” has the meaning given by section 123.

[(1A) In this Schedule, “company” means–

[(a) a company registered under the Companies Act 2006 in England and Wales or Scotland,]⁵

(b) a company incorporated in an EEA State [...] ⁶ , or

(c) a company not incorporated in an EEA State but having its centre of main interests in a member State [(other than Denmark) or in the United Kingdom] ⁷ .

(1B) In sub-paragraph (1A), in relation to a company, “centre of main interests” has the same meaning as in [Article 3 of the EU Regulation] ⁸ .] ⁴

(2) [...] ⁹

(3) In this Schedule a reference to action includes a reference to inaction.
] ¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Definition repealed by Insolvency Act 1986 (Amendment) Regulations 2005/879 reg.2(4)(a) (April 13, 2005)
- ³ Definitions repealed by Small Business, Enterprise and Employment Act 2015 c. 26 Sch.9(1) para.10(44) (April 6, 2019: 2015 c.26 s.126 and Sch.9 came into force on May 26, 2015 as specified in SI 2015/1329 reg.3(d) for the limited purpose of enabling the exercise of any power to make provision by regulations, rules or order made by statutory instrument or to prepare and issue guidance; April 6, 2019 in relation to Scotland as specified in SI 2019/816 reg.4(c) subject to savings specified in SI 2019/816 reg.5)
- ⁴ Added by Insolvency Act 1986 (Amendment) Regulations 2005/879 reg.2(4)(b) (April 13, 2005)
- ⁵ Substituted by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009/1941 Sch.1 para.72 (October 1, 2009: substitution has effect subject to transitional provisions specified in SI 2009/1941 art.8)
- ⁶ Words repealed by Insolvency (Amendment) (EU Exit) Regulations 2019/146 Sch.1(2) para.44(b)(i) (December 31, 2020: repeal has effect subject to savings specified in SI 2019/146 regs 4 and 5)
- ⁷ Words substituted by Insolvency (Amendment) (EU Exit) Regulations 2019/146 Sch.1(2) para.44(b)(ii) (December 31, 2020: substitution has effect subject to savings specified in SI 2019/146 regs 4 and 5)
- ⁸ Words substituted by Insolvency Amendment (EU 2015/848) Regulations 2017/702 Sch.1(1) para.31 (June 26, 2017: substitution has effect subject to temporal application and saving specified in SI 2017/702 regs 3 and 4)
- ⁹ Repealed by Legislative Reform (Insolvency) (Miscellaneous Provisions) Order 2010/18 art.4(2) (April 6, 2010: repeal has effect subject to transitional provisions specified in SI 2010/18 art.12(4))

Extent

Sch. B1 para. 111(1)-(3): United Kingdom

[Non-UK companies]¹

Notes

- ¹ Added by Insolvency Act 1986 (Amendment) Regulations 2005/879 reg.2(4)(c) (April 13, 2005)
-

✓ Law In Force

[111A.

A company incorporated outside the United Kingdom that has a principal place of business in Northern Ireland may not enter administration under this Schedule unless it also has a principal place of business in England and Wales or Scotland (or both in England and Wales and in Scotland).
]¹

Notes

¹ Added by Insolvency Act 1986 (Amendment) Regulations 2005/879 reg.2(4)(c) (April 13, 2005)

Extent

Sch. B1 para. 111A: United Kingdom

[Scotland]¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

✓ Law In Force

[112

In the application of this Schedule to Scotland—

- (a) a reference to filing with the court is a reference to lodging in court, and
- (b) a reference to a charge is a reference to a right in security.

]¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 112(a)-(b): United Kingdom

✓ Law In Force

[113

Where property in Scotland is disposed of under paragraph 70 or 71, the administrator shall grant to the donee an appropriate document of transfer or conveyance of the property, and—

- (a) that document, or
- (b) recording, intimation or registration of that document (where recording, intimation or registration of the document is a legal requirement for completion of title to the property),

has the effect of disencumbering the property of or, as the case may be, freeing the property from, the security.

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 113(a)-(b): United Kingdom

✓ Law In Force

[114

In Scotland, where goods in the possession of a company under a hire-purchase agreement are disposed of under paragraph 72, the disposal has the effect of extinguishing as against the disponee all rights of the owner of the goods under the agreement.

] ¹

Notes

¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 114: United Kingdom

✓ Law In Force

[115

(1) In Scotland, the administrator of a company may make, in or towards the satisfaction of the debt secured by the floating charge, a payment to the holder of a floating charge which has attached to the property subject to the charge.

[(1A) In Scotland, sub-paragraph (1B) applies in connection with the giving by the court of permission as provided for in paragraph 65(3)(b).

(1B) On the giving by the court of such permission, any floating charge granted by the company shall, unless it has already so attached, attach to the property which is subject to the charge.] ²

(2) In Scotland, where the administrator thinks that the company has insufficient property to enable a distribution to be made to unsecured creditors other than by virtue of section 176A(2)(a), he may file a notice to that effect with the registrar of companies.

(3) On delivery of the notice to the registrar of companies, any floating charge granted by the company shall, unless it has already so attached, attach to the property which is subject to the charge [...]³ .


[(4) Attachment of a floating charge under sub-paragraph (1B) or (3) has effect as if the charge is a fixed security over the property to which it has attached.]⁴
]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)
- ² Added by Small Business, Enterprise and Employment Act 2015 c. 26 Pt 10 s.130(2) (May 26, 2015)
- ³ Words repealed by Small Business, Enterprise and Employment Act 2015 c. 26 Pt 10 s.130(3) (May 26, 2015)
- ⁴ Added by Small Business, Enterprise and Employment Act 2015 c. 26 Pt 10 s.130(4) (May 26, 2015)

Extent

Sch. B1 para. 115(1)-(4): United Kingdom

 Law In Force

[116

In Scotland, the administrator in making any payment in accordance with paragraph 115 shall make such payment subject to the rights of any of the following categories of persons (which rights shall, except to the extent provided in any instrument, have the following order of priority)—

- (a) the holder of any fixed security which is over property subject to the floating charge and which ranks prior to, or pari passu with, the floating charge,
- (b) creditors in respect of all liabilities and expenses incurred by or on behalf of the administrator,
- (c) the administrator in respect of his liabilities, expenses and remuneration and any indemnity to which he is entitled out of the property of the company,
- (d) the preferential creditors entitled to payment in accordance with paragraph 65,
- (e) the holder of the floating charge in accordance with the priority of that charge in relation to any other floating charge which has attached, and
- (f) the holder of a fixed security, other than one referred to in paragraph (a), which is over property subject to the floating charge.

]¹

Notes

- ¹ Added by Enterprise Act 2002 c. 40 Sch.16 para.1 (September 15, 2003: insertion comes into force on September 15, 2003 subject to transitional provisions specified in SI 2003/2093 art.3)

Extent

Sch. B1 para. 116(a)-(f): United Kingdom
